

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEONARD JESSE ROBINSON,

Defendant-Appellant.

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UNPUBLISHED

September 11, 2007

No. 270687

Calhoun Circuit Court

LC No. 2005-004568-FC

Before: Cavanagh, P.J., and Donofrio and Servitto, JJ.

PER CURIAM.

Following a jury trial, defendant Leonard Robinson was convicted of one count of assault with intent to commit murder, MCL 750.83, one count of intentionally discharging a firearm at a dwelling or occupied structure, MCL 750.234b, one count of carrying a concealed weapon (“CCW”), MCL 750.227, one count of third degree fleeing and eluding, MCL 750.479a(3), one count of intentionally discharging firearm from a motor vehicle, MCL 750.234a, and four counts of possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced defendant to 30 to 60 years’ imprisonment for his assault with intent to commit murder conviction, two to four years’ imprisonment for his conviction of intentionally discharging a firearm at a dwelling or occupied structure, two to five years’ imprisonment for his conviction of fleeing and eluding, two to four years’ imprisonment for his conviction of intentionally discharging a firearm from a motor vehicle, and two to five years’ imprisonment for his CCW conviction. The sentences, with the exception of the sentence imposed for CCW, are concurrent with one another, but consecutive to defendant’s sentences of two years’ imprisonment for each of his felony firearm convictions. The CCW conviction is concurrent to all sentences. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On October 2, 2004, at approximately 1:00 a.m., Irma Griffin witnessed an altercation that occurred between her nephews and two men in a black car at a nearby gas station. The driver of the car bent down and her nephews ran back towards Griffin’s house. Approximately ten minutes later, Griffin saw the black car driving slowly in front of her house. The car was on the wrong side of the road, so that the driver’s side of the car was closest to the house. Griffin went inside the house, closed the door, and stood behind the picture window in the living room. Griffin testified that the driver of the car exited the car, stood in her front yard, and fired nine to ten shots at the house before driving away. Griffin dropped to the floor and crawled to the back bedroom where her friend, Venus Mitchell, was sleeping. They reported the shooting to the

police. A few minutes later, Griffin and Mitchell were standing in the doorway of the house when the black car returned. Mitchell testified that the car slowed down, an arm came out of the driver's side window, and shots were fired at the door where they were standing. Following a chase that ensued between the police and the black car, defendant was taken into custody, and Mitchell and Griffin identified him in a police lineup as the shooter. Griffin testified that, following the shooting, there was a bullet hole in the wall near where she was standing behind the picture window and that the bullet hole was only one or two inches above where her head was. Police recovered nine bullets from the living room wall, the windowsill in the living room, the stereo speakers in the living room, and an upstairs window. No one was injured in the shooting.

Defendant contends that the prosecution failed to present sufficient evidence to support his conviction of assault with intent to commit murder because the evidence did not prove, beyond a reasonable doubt, that he had the intent to kill.

We review de novo challenges to the sufficiency of evidence in a criminal trial. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). In reviewing the sufficiency of the evidence, we “must view the evidence in the light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999), quoting *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). “Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.” *Id.*, quoting *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993).

To sustain a conviction for assault with intent to commit murder, the prosecution must prove the following elements beyond a reasonable doubt: (1) an assault, (2) with an actual intent to kill, (3) that, if it is successful, would make the killing a murder. MCL 750.83; *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). Assault with intent to commit murder is a specific intent crime. Thus, the prosecutor must prove beyond a reasonable doubt that the defendant had an actual intent to kill. *People v Cochran*, 155 Mich App 191, 193-194; 399 NW2d 44 (1986). “The intent to kill may be proved by inference from any facts in evidence.” *McRunels*, *supra* at 181. Further, minimal circumstantial evidence of intent is sufficient because of the difficulty of proving the state of mind of an actor. *Id.* In determining whether a defendant had an intent to kill, the jury may consider:

the nature of the defendant's acts constituting the assault; the temper or disposition of mind with which they were apparently performed, whether the instrument and means used were naturally adapted to produce death, his conduct and declarations prior to, at the time, and after the assault, and all other circumstances calculated to throw light upon the intention with which the assault was made. [*Roberts v People*, 19 Mich 401, 415 (1870).]

Griffin testified at trial that, when defendant began shooting at the house, she was standing in the living room behind the picture window. She further testified that her house is situated close to the road and that with the curtains open and lamp on, as it was that night, a person could clearly see into the living room from outside. Griffin testified that she saw the fire from the first gunshot and that defendant's gun was pointed directly at the living room picture

window where she was standing. Defendant fired nine or ten more shots and then drove away. A bullet hole was found in the wall only one to two inches above where Griffin's head was in the living room. Defendant later returned and fired four or five additional shots from inside of the car. Mitchell testified that, at that time, defendant's gun was pointed at the door where she and Griffin were standing. Additionally, Griffin testified that she felt like the second round of shots were coming right at her. This testimony was sufficient to establish that defendant had an actual intent to kill when he fired his gun at Griffin's home. "This Court will not interfere with the jury's role of determining the weight of evidence or the credibility of witnesses." *McRunels*, *supra* at 181.

In addition, the jury was permitted to infer that defendant intended to kill Griffin because he used a firearm. See, generally, *People v Dumas*, 454 Mich 390, 403; 563 NW2d 31 (1997); *People v Brown*, 196 Mich App 153, 159; 492 NW2d 770 (1992).

Defendant does not dispute that he was the shooter, that he assaulted Griffin, or that, had Griffin been shot and died as a result of a gunshot wound, the killing would have been murder. See MCL 750.316; MCL 750.317. Thus, on the record before us, the evidence presented at trial was sufficient for a rational trier of fact to find that the prosecutor proved all of the elements of assault with intent to commit murder beyond a reasonable doubt.

Affirmed.

/s/ Mark J. Cavanagh  
/s/ Pat M. Donofrio  
/s/ Deborah A. Servitto